CLCON No. 151 of 2001

Hon'ble Irshad Hussain, J.

Heard Sri G.C. Kandpal, learned counsel for the petitioner and Sri Subhash Upadhyay, brief holder for respondent. This is an application recalling order dated 8.9.2003 whereby the contempt petition was dismissed and notice was discharged.

The reason for the order of dismissal of the contempt petition was that from the perusal of the counter affidavit, it was evident that the compliance of the order of the court had been made. On that date i.e. 8.9.2003 none appeared for the petitioner. Learned counsel for the applicant states that he had not been given appropriate opportunity to put forward his contention in the matter. He has now been heard at length. From perusal of the counter affidavit as well as the copy of the order dated 23.7.2001 from Annexure C passed by the District Magistrate, Udham Singh Nagar, it is evident that the case of the petitioner had been considered in the light of the Government order dated 8.1.1996 and his claim had been rejected on merit.

It is evident from the Court's order dated 16.6.2001 that there was direction to consider the case of the petition for appointment under GO dated 8.1.1996 and therefore there is no willfull disobedience of the order of the court. If the petitioner was aggrieved by the order dated 23.7.2001 he could have preferred as a fresh writ petition for appropriate relief in his favour. The learned counsel has referred to the authority of the Supreme Court in this regard. And the same is reported in 2000 (10 SCC 285) Lalith Mathur Vs. L. Maheshwar Rao. Considering this, there is no merit in the petition for recall of the order of dismissal of the contempt petition and, therefore the present application is dismissed.

(Irshad Hussain, J.)

Dated 9.10.2003
Rawat